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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

AMENDMENT OF THE COMMISSION'S
RULES TO PERMIT FLEXIBLE SERVICE
OFFERINGS IN THE COMMERCIAL MOBILE
RADIO SERVICES

WT Docket No. 96-6

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To: Commercial Wireless Division
Wireless Telecommunications Bureau

COMMENTS OF PCS ONE, INC.

PCS One, Inc. ("PCS One") in response to the request by the Commission in Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, FCC 96-17, released January 25, 1996, hereby submits these Comments.^{1/}

1. PCS One is a qualified bidder in the ongoing FCC auction for C-Block Personal Communications Service ("PCS") licenses. Since the issues raised in this docket directly relate to uses of PCS and other Commercial Mobile Radio Service ("CMRS") spectrum frequencies, PCS One has a direct interest in the outcome of this proceeding.

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^{1/} These Comments are timely filed pursuant to the Commission's Order in Amendment to the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, DA 96-225, released February 22, 1996.

I. CELLULAR LICENSEES SHOULD NOT BE GRANTED ADDITIONAL AUTHORITY TO PROVIDE FIXED CELLULAR SERVICE.

2. PCS One opposes the Commission's proposal to amend existing rules to permit cellular licensees to provide fixed wireless local loop services.^{2/} When authorizing the PCS spectrum, the Commission established certain frequencies and service offerings that were unique to PCS. Cellular carriers already have the authority to provide fixed cellular services on an ancillary basis. There is no need to now give them additional authority beyond that to provide wireless local loop type services.

3. The Commission must consider the competitive realities of the marketplace in granting greater flexibility for spectrum use. Cellular providers, which have been in the marketplace, largely alone, for the past ten (10) years, have had time to develop their systems and to establish a customer base. PCS licensees must now undertake the same process; however, unlike cellular licensees, PCS licensees face competition from existing cellular and SMR licensees.^{3/} The Commission must permit PCS, for at least a decent interval, greater flexibility than cellular in the use of its spectrum. This is necessary in order that there be a more "level playing field" while PCS enters the marketplace and attempts to establish itself against the entrenched cellular operators.

4. Cellular licensees not only have the advantage of having had approximately ten (10) years to develop their systems, without substantial competition, but many paid little more than application filing fees to acquire their initial licenses. PCS licensees, on the other hand, are paying millions of dollars solely to acquire their licenses through FCC auctions. PCS licensees must also pay the extensive costs associated with relocating

^{2/} See Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services ("Notice"), *Notice of Proposed Rule Making*, FCC 96-17, released Jan. 25, 1996, at 11 par. 15.

^{3/} See, e.g., Notice at 10, para. 16 ("cellular and SMR services in the short term are most likely to directly compete with each other and with broadband PCS....").

incumbent microwave licensees^{4/} as well as costs associated with the expeditious build-out of their systems.^{5/}

**II. THE COMMISSION NEED NOT
BLINDLY ADHERE TO CMRS
REGULATORY PARITY HERE.**

5. In the Notice, the Commission made reference to Congress' intention, through the Omnibus Reconciliation Act of 1993, to create regulatory symmetry among mobile services to ensure that economic forces would shape the development of the CMRS marketplace.^{6/} However, the Commission must consider the impact on competition in adopting greater flexibility here. The theory behind regulatory parity was that it would help enhance competition, not potentially hinder it. Here the grant of total flexibility to cellular carriers would give them further potential advantages in a marketplace that they already dominate. Therefore, for at least some period, cellular licensees should not receive greater flexibility to provide fixed service than they already have.

6. The Commission clearly pushed PCS to market because it was concerned about the lack of competition for cellular. Cellular has and will continue to have market advantages, which the Commission, in its PCS rules, recognized by restricting cellular eligibility to hold PCS licenses. The Commission should not potentially further extend that advantage at this time by giving cellular carriers any additional authority for fixed services beyond that which they already have.

^{4/} The costs associated with relocating incumbent microwave licensees has been estimated at roughly one billion dollars. Telecommunications Reports Wireless News, Vol. 5, No. 21, Page 2.

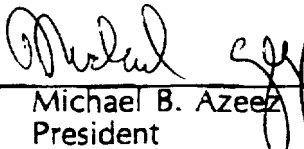
^{5/} Pursuant to Section 24.203(a) and (b) of the Commission's Rules, PCS licensees of 30 MHz blocks must provide service to at least one-third of their licensed service area(s) within five years of receiving a license and licensees of 10 MHz blocks must provide service to at least one-quarter of the population within their service area within five years of receiving a license.

^{6/} See Notice at 12, para. 19.

WHEREFORE, in light of the foregoing, PCS One respectfully requests that the Commission retain its current rules regarding permissible operations by cellular licensees and not permit cellular licensees to provide fixed wireless local loop service beyond what they are currently authorized.

Respectfully submitted,

PCS ONE, INC.

By: 

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Dated: March 1, 1996